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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

US DISTRICT COURT
WESTERN DISTRICT OF NC

| | | |
|--------------------------|---|------------------------------|
| _____ |) | Docket No. 1:21-cr-96-MR-WCM |
| UNITED STATES OF AMERICA |) | |
| |) | <u>BILL OF INFORMATION</u> |
| v. |) | |
| |) | Violations: |
| MATTHEW SIDNEY GEOUGE |) | 18 U.S.C. § 371 |
| |) | 26 U.S.C. § 7201 |
| |) | 42 U.S.C. § 7413(c)(2)(C) |
| _____ |) | |

THE UNITED STATES CHARGES:

At all times material to this Bill of Information:

1. MATTHEW SIDNEY GEOUGE was, at all times relevant to this Bill of Information, a resident of Henderson County, North Carolina, in the Western District of North Carolina, and the owner of Spartan Diesel Technologies, which was started in or about 2008 and incorporated in North Carolina in April 2010, and Spartan Truck Solutions, which was incorporated in North Carolina in March 2015 (collectively "Spartan" hereinafter).

Background regarding Clean Air Act Violation

2. The purpose of the Clean Air Act is, among other things, "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population." 42 U.S.C. § 7401(b)(1); *see also* 42 U.S.C. § 7470. In enacting the Clean Air Act, Congress found that "the increasing use of motor vehicles . . . has resulted in mounting dangers to the public health and welfare." 42 U.S.C. § 7401(a)(2). Congress instructed the Environmental Protection Agency (EPA) to establish regulations and standards to control emissions from motor vehicles which cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare. 42 U.S.C. § 7521(a)(1).

3. The Clean Air Act regulates "mobile sources," which include motor vehicles and engines. Pursuant to 42 U.S. Code §§ 7521- 7554, and the regulations promulgated thereunder, the U.S. Environmental Protection Agency (EPA) established standards limiting the emission of air pollutants from various classes of motor vehicle engines. Heavy duty diesel engines were one such class and were subject to the emissions regulations found at 40 C.F.R. Part 86, Subpart A. 42 U.S.C. § 7521(a)(3).

4. Pursuant to 42 U.S.C. § 7521(m)(1), the EPA was authorized to create regulations requiring manufacturers to install on-board diagnostic ("OBD") systems on vehicles and engines to ensure that emission standards were met. The EPA thus enacted regulations that required

manufacturers to install OBD systems on vehicles and engines, including heavy duty diesel trucks, "capable of monitoring all emission-related engine systems or components." 40 C.F.R. §§ 86.1806-05, 86.010-18. Standardized OBD requirements for heavy duty diesel trucks with a gross vehicle weight rate (GVWR) greater than 8,500 pounds and under 14,000 pounds have been phased in since 2005 and, as of model year 2007, all trucks in this weight class are required to be equipped with OBD systems. Standardized OBD requirements for heavy duty diesel trucks with a GVWR greater than 14,000 pounds have been phased in since 2010, and, as of model year 2013, all engines installed in models in this weight class are required to be equipped with OBDs.

5. The OBD system – consisting of software, sensors, and actuators – monitors emission-related engine systems and components. The OBD software is located in the vehicle's computer. If an emissions-related malfunction or problem occurs, the OBD system causes a Malfunction Indicator/Check Engine Light to be illuminated on the vehicle's dashboard, and a fault code to be stored in the OBD's memory. These functions facilitate the detection and diagnosis of a malfunction in the emission control system. If the problem is not resolved, the OBD system could limit the top speed of the vehicle to as low as five miles per hour (an effect commonly referred to as "limp mode" or "power reduced mode"), providing an incentive for the vehicle's operator to seek repairs.

6. When an illegal vehicle emissions system defeat device is installed in a vehicle, such as a "tuner," the software, or "tune," prevents the malfunction indicator light from illuminating on the dashboard and prevents the fault code from being stored in the OBD, which serves to conceal the tampering of emission controls. It also allows the vehicle to run with increased horsepower and torque, and at normal speeds, even while the hardware emission components are disabled or removed. This results in significantly increased pollutant emissions released into the atmosphere. The EPA is aware of multiple types of illegal tuners and tunes. One example is a plug-in tuner, which can be plugged into the vehicle's data link connector to the OBD and permit "on-the-fly" tuning. Plug-in tuners allow the driver to turn on and off at will the software modifications that manipulate the engine computer module and prevent the OBD from detecting a malfunction in the emission controls.

7. From at least as early as in or about 2008 to in or about January 2017, MATTHEW SIDNEY GEOUGE and, at his direction, Spartan Diesel Technologies and Spartan Truck Solutions, obtained tuners and encryption software to create tunes. For automatic transmission vehicles, he pre-loaded tunes onto the tuners, and then sold them to customers. For manual transmission vehicles, he directed customers to the Spartan website to download the applicable tune to the customer's tuner. MATTHEW SIDNEY GEOUGE distributed marketing material that targeted various vehicles, including those under 14,000 pounds. He also wrote tunes for the tuners he sold, which would illegally tamper with the OBD's monitoring system.

8. On August 4, 2015, the EPA issued a notice of violation to MATTHEW SIDNEY GEOUGE, citing him for selling, through Spartan Diesel Technologies, illegal plug-in tuners and tunes.

9. In early 2017, Spartan was dissolved after another company, Patriot Diagnostics, purchased Spartan's inventory, including tuners containing illegal tunes designed to override the OBD, hired Spartan's sales and service employees, and continued selling tuners with MATTHEW SIDNEY GEOUGE's tunes until early 2018, when yet another company, B2 Enterprises, purchased the inventory, hired Patriot Diagnostic's sales and service employees, and continued selling tuners with MATTHEW SIDNEY GEOUGE's tunes until December 2018, when it was dissolved. From the dissolution of Spartan, MATTHEW SIDNEY GEOUGE retained control of his tunes, his licensing agreement with the device manufacturer, and continued to provide tuning and support to those businesses selling MATTHEW SIDNEY GEOUGE's tunes on their devices. Throughout this time, MATTHEW SIDNEY GEOUGE continued to receive financial compensation for the sales and support of tuners and illegal tunes that tamper with the OBD's monitoring function, through Patriot Diagnostics and B2 Enterprises.

10. On October 19, 2017, the EPA issued an administrative complaint against Spartan Diesel Technologies, based on the illegal conduct cited in the August 4, 2015 notice of violation, resulting in an October 30, 2018 order to pay a civil administrative penalty in the amount of \$4,154,805 for violating section 203(a)(3)(B) of the Clean Air Act, 42 U.S.C. § 7522(a)(3)(B), for selling at least 5,000 illegal vehicle emissions system defeat devices from 2011 through 2013. However, as described above, MATTHEW SIDNEY GEOUGE continued his illegal conduct, and has never paid any of the administrative penalty.

11. In total, MATTHEW SIDNEY GEOUGE, through Spartan Diesel Technologies and Spartan Truck, grossed more than \$10,000,000 from the sales of tuners, illegal tunes, and related services, not including income he received from later entities that continued the illegal conduct.

12. MATTHEW SIDNEY GEOUGE undertook to conceal his assets and taxable income from both the EPA, which had the outstanding multi-million-dollar judgment against him, and the Internal Revenue Service ("IRS"), to whom MATTHEW SIDNEY GEOUGE would owe income taxes.

Background regarding Tax Evasion

13. At all times relevant to this Bill of Information, defendant MATTHEW SIDNEY GEOUGE was required, based on his receipt of income over the threshold amount, to file on an annual basis with the IRS, United States Individual Income Tax Returns, Forms 1040. In addition, at all times relevant to this Bill of Information, MATTHEW SIDNEY GEOUGE failed to report income and or expenses from any of his business, including Spartan Diesel Technologies to the IRS on any United States Corporation Income Tax Returns, Forms 1120, or United States Partnership Income Tax Returns, Forms 1065, with the IRS.

14. MATTHEW SIDNEY GEOUGE engaged in a course of conduct to conceal assets and taxable income from both the EPA and the IRS, to whom MATTHEW SIDNEY GEOUGE would owe income taxes. MATTHEW SIDNEY GEOUGE concealed several millions of dollars of

income derived from his illegal “tuning” business, described above, and legal sale of firearms and ammunition for the 2015 through 2019 tax years.

15. For the 2015, 2016, 2017, 2018, and 2019 tax years, MATTHEW SIDNEY GEOUGE failed to file his Individual Income Tax Return, Form 1040, as well as to declare his business income and expenses, thereby evading his personal and business tax assessments.

16. For the 2015 and 2016 tax years, MATTHEW SIDNEY GEOUGE committed tax evasion by not only failing to file said IRS forms, but also using his business bank accounts to pay for personal living expenses, personal firearms and ammunition, and hundreds of thousands of dollars in capital improvements to land and a home he owned in Polk County.

17. For the 2017, 2018, and 2019 tax years, MATTHEW SIDNEY GEOUGE committed tax evasion by not only failing to file said IRS forms, but arranged to have his income earned appear to be earned by a third party designee. As part of that scheme to conceal his earned income from the EPA and IRS, MATTHEW SIDNEY GEOUGE arranged to have payroll items paid out to a third party through that third party’s bank account. As a result, MATTHEW SIDNEY GEOUGE evaded paying at least \$160,000 in federal taxes during this period. The amount of MATTHEW SIDNEY GEOUGE’s tax due and owing for the 2015 through 2019 tax years is at least \$346,000.

COUNT ONE

(Conspiracy to Defraud the United States and to Violate the Clean Air Act)

18. The allegations in paragraphs 1 through 17 of this Bill of Information are incorporated herein.

19. From at least as early as in or about 2008 to in or about 2018, in Henderson County, within the Western District of North Carolina, and elsewhere, the defendant,

MATTHEW SIDNEY GEOUGE,

did knowingly and intentionally conspire and agree with other persons, known and unknown to the United States, to commit certain offenses against the United States, to wit: to defraud the United States by impairing, impeding, obstructing, and defeating the lawful functions of the federal government, that is, the Environmental Protection Agency’s function to implement and enforce emissions standards for air pollutants for vehicles under the Clean Air Act by deceitful and dishonest means, and to violate the Clean Air Act by assisting in the tampering with and rendering inaccurate monitoring devices required to be maintained by the Clean Air Act, in violation of Title 42, United States Code, Section 7413(c)(2)(C), and Title 18, United States Code, Section 371.

Manner and Means, and Overt Acts

20. Throughout the existence of MATTHEW SIDNEY GEOUGE's companies, Spartan Diesel Technologies and Spartan Truck Solutions, and that of the successor companies, MATTHEW SIDNEY GEOUGE sold plug-in tuners and, with regard to illegal tunes to defeat the mandatory on-board diagnostic system, he either (a) pre-loaded tunes onto the tuners or (b) sold the tuners with instructions to download illegal tunes from MATTHEW SIDNEY GEOUGE's company's website.

21. MATTHEW SIDNEY GEOUGE conspired and agreed with employees of Spartan and its successor companies, among other persons, to defraud the United States and to violate the Clean Air Act. They further conspired to have sale proceeds and assets that should have been distributed and attributed to MATTHEW SIDNEY GEOUGE directed instead to a third party to conceal them from the United States Environmental Protection Agency and other regulators and federal agencies.

22. All in violation of Title 18, United States Code, Section 371.

COUNT TWO
(Tax Evasion – 2015 Tax Year)

23. The allegations in paragraphs 1 through 17 of this Bill of Information are incorporated herein.

24. During the tax year 2015, defendant MATTHEW SIDNEY GEOUGE, a resident of Henderson County, North Carolina, received taxable income, upon which there was income tax due and owing to the United States of America. Well knowing the foregoing facts, and failing to make an income tax return on or before April 15, 2016 as required by law, to any proper officer of the Internal Revenue Service, and pay to the Internal Revenue Service the income tax, defendant MATTHEW SIDNEY GEOUGE, between in or about January 2015 and in or about the date of this Bill of Information, in the Western District of North Carolina, and elsewhere, did willfully attempt to evade and defeat the income tax due and owing by him to the United States of America for the tax year 2015 by committing the following affirmative acts, among others: paying personal expenses out of business bank accounts. All in violation of Title 26, United States Code, Section 7201.

WILLIAM T. STETZER
ACTING UNITED STATES ATTORNEY



STEVEN R. KAUFMAN
ASSISTANT UNITED STATES ATTORNEY

NEW CRIMINAL CASE COVER SHEET**U. S. DISTRICT COURT**(To be used for **all** new Bills of Indictments and Bills of Information)**CASE SEALED:** ☐ YES ☒ NO**DOCKET NUMBER:** 1:21-cr-If case is to be sealed, a Motion to Seal and proposed Order **must** be attached.)**CASE NAME** :US vs MATTHEW SIDNEY GEOUGE**COUNTY OF OFFENSE** : Henderson County**RELATED CASE INFORMATION** : 1:21-cr-75; 1:21-cr-76; 1:21-cr-77

Magistrate Judge Case Number :

Search Warrant Case Number :

Miscellaneous Case Number :

Rule 20b :

SERVICE OF PROCESS : Summons**U.S.C. CITATIONS** (Mark offense carrying greatest weight): ☐ Petty ☐ Misdemeanor ☒ Felony

42 U.S.C. § 7413(c)(2)(C): Conspiracy to Defraud the United States and to Violate the Clean Air Act

JUVENILE: ☐ Yes ☒ No**ASSISTANT U. S. ATTORNEY** : Kaufman, Steve**VICTIM/WITNESS COORDINATORS:** Shirley Rutledge**INTERPRETER NEEDED** : N/A**LIST LANGUAGE AND/OR DIALECT:****REMARKS AND SPECIAL INSTRUCTIONS:** Anthony Scheer is retained counsel